

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: URADE=2

In re Application of:)	Confirmation No.: 3496
)	
Yoshihiro URADE et al.)	Art Unit: 4173
)	
Appln. No.: 10/518,053)	Examiner: S.JM. Jean-Louis
)	
371(c) Date: Dec. 16, 2004)	November 13, 2007 ¹
)	
For: NOVEL ANTIMALARIAL AGENT)	

REPLY TO REQUIREMENT FOR ELECTION OF SPECIES

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop: Amendment
Randolph Building, 401 Dulany Street
Alexandria, VA 22314

Sir:

Applicants are in receipt of the Office Action mailed, October 12, 2007, entirely in the nature of a requirement of election of species, purportedly based on lack of unity of invention under the applicable PCT Rules 13.1 and 13.2. Applicants reply below.

First, however, Applicants request the PTO to acknowledge receipt of Applicants' papers filed under section 119.

Applicants have been "required to elect a particular compound for the treatment of malaria as listed in claims 3, 5, 6, and 8." As Applicants must make an election even if the requirement is traversed, Applicants hereby respectfully and provisionally elect the compound as recited in claim 5, with

¹ Monday, November 12, 2007, was a legal Federal Holiday, Veterans Day.

traverse and without prejudice. The claims which read on the elected compound are generic claims 1 and 4, and specific claim 5.

Applicants do not deny that the species may indeed be patentably distinct from one another, but Applicants maintain that that is not the criterion for lack of unity of invention under PCT Rules 13.1 and 13.2. Thus, Applicants maintain that the claims do relate to a single general inventive concept under PCT rule 13.1 as evidenced by claim 1 which covers all the species; consequently, the species have the same special technical feature as called for in claim 1. The PTO has so far provided no evidence to the contrary.

Applicants' accordingly respectfully request a withdrawal of the requirement and examination of all the claims on the merits.

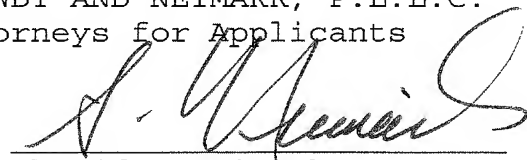
Applicants note the paragraph at the top of page 3 of the official action, and understand that upon allowance of a generic claim, applicants would be entitled to non-elected species claims which depend from the allowable generic claim.

Applicants now respectfully await the results of an examination on the merits.

Respectfully submitted,

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